

State of California  
Regional Water Quality Control Board  
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT  
April 10, 2002

ITEM: 11

SUBJECT: ADMINISTRATIVE ASSESSMENT OF CIVIL  
LIABILITY CONTAINING A MANDATORY PENALTY  
AGAINST PROMENADE, INC. FOR VIOLATION OF  
ORDER NO. 96-41, NPDES NO. CAG919002, WASTE  
DISCHARGE REQUIREMENTS FOR A PERMANENT  
DEWATERING SYSTEM AT PACIFIC BEACH  
PROMENADE, 4150 MISSION BLVD., SAN DIEGO,  
CA (TENTATIVE ORDER NO. R9-2002-0052) (Rebecca  
Stewart)

PURPOSE: To received testimony from Promenade, Inc., Regional  
Board staff and interested parties regarding the proposed  
mandatory penalties contained in tentative Order No. R9-  
2002-0052 (Supporting Document No. 1).

PUBLIC NOTICE: A 30-day public notice regarding the scheduled public  
hearing was published in the San Diego Union-Tribune on  
March 11, 2002. The written comment period will end on  
April 9, 2002.

DISCUSSION: Promenade, Inc. operates a permanent dewatering system at  
a two-story strip mall known as Pacific Beach Promenade.  
The discharge is regulated under general waste discharge  
requirements for dewatering operations. The general waste  
discharge requirements require Promenade, Inc. to submit  
monthly, quarterly, and semi-annual monitoring reports.  
The Regional Board acknowledges receipt of monitoring  
reports and identifies violations of monitored parameters in  
the acknowledgement letters.

Complaint No. R9-2002-003 (Supporting Document No. 2)  
was issued to Promenade, Inc., Pacific Beach Promenade  
dewatering on February 11, 2002 pursuant to California  
Water Code Section 13385. Violations of total suspended  
solids, cyanide, pH, copper, zinc and chronic toxicity were  
noted in the discharger's monitoring reports submitted in  
accordance with Order No. 96-41. These violations

subsequently incurred mandatory penalties as described in Complaint No. R9-2002-003.

On February 28, 2002 Regional Board staff met with Promenade, Inc. representatives regarding the violations contained in Complaint No. R9-2002-003. The discharger discussed numerous defenses for all violations cited in the Complaint. The discharger was instructed to submit the rationale for their defense in writing for staff evaluation and comment. On March 26, 2002 a thirteen-page document (Supporting Document No. 3) was faxed to the Regional Board refuting the violations. Due to the late submission, staff has not completed our review and comments. Comments will be forwarded to the Regional Board in a subsequent mailing.

LEGAL CONCERNS:

None.

SUPPORTING  
DOCUMENTS:

- (1) Tentative Order No. R9-2002-0052.
- (2) Complaint No. R9-2002-003.
- (3) Letter dated March 26, 2002 by Varco & Associates on behalf of Promenade, Inc.

RECOMMENDATION:

A recommendation will be made after review of the discharger's arguments.